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34 DONNA LEACH, individually and on behalf
35 of the Estate of Clyde Leach

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DONNA LEACH, individually and on behalf of the Estate of Clyde Leach,

Plaintiff,

vs.

TESLA, INC. and DOES 1 through 100, inclusive,

Defendants

Case No. 3:23-cv-03378-SI
(Removed from Santa Clara County Superior Court – Case No. 23CV414572)

District Judge: Susan Illston

JOINT CASE MANAGEMENT STATEMENT

CMC Date: November 15, 2024
CMC Time: 3:00 p.m.

CMC Time: 3:00 p.m.
Action Filed: April 11, 2023

Action Filed: April 11, 2023
Trial Date: July 21, 2025

Plaintiff Donna Leach, individually and on behalf of the Estate of Clyde Leach (“Plaintiff”) and Defendant Tesla, Inc. (“Defendant” or “Tesla”) (Plaintiff and Defendant are collectively referred to herein as “the Parties”), hereby submit this Joint Case Management Statement.

1. Jurisdiction & Service

Plaintiff filed this action in Santa Clara County Superior Court on April 11, 2023. Defendant Tesla was served on June 6, 2023. The case was removed to this Court on July 6, 2023. (See Doc. 1.) This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

At this time based on information available, Tesla does not dispute jurisdiction. No additional parties need to be served.

2. Facts

Plaintiff's Position:

Plaintiff alleges the following: On April 17, 2021, Clyde Leach was the sole occupant of his 2021 Tesla Model Y (“the Tesla”), which was driving southbound on Allen Road through its intersection with State Route 435 in Jeffersonville, Ohio. The Tesla was operated in significant part by its internal computer system. After the Tesla moved slowly through the intersection, it suddenly accelerated forward without any intentional driver direction or command by Clyde Leach. The Tesla then failed to negotiate a slight curve in the road, and instead departed the roadway and accelerated straight toward an adjacent Speedway gas station. Electronic data extracted from one of the Tesla’s microprocessors on November 6, 2024 indicates that Mr. Leach was likely experiencing

1 a sudden unintended acceleration (SUA) event prior to the crash.

2 The Tesla's computerized suite of automation and safety features should have detected that
3 the vehicle was hurtling off the road and toward fixed obstacles, including curbs, signage, support
4 columns, gas pumps, and parked vehicles. Nevertheless, the vehicle did not engage its automatic
5 emergency braking, apply braking, reduce acceleration, or otherwise mitigate or prevent a collision
6 with the fixed obstacles ahead.

7 As a result, the Tesla crashed over a curb, through roadside signage, and ran into a support
8 column adjacent to gas pumps and a parked vehicle. The Tesla impacted the support column at or
9 near its front centerline, between the longitudinal crash rails. Although the crash occurred at
10 moderate speed, and under ordinary and foreseeable conditions, upon impact, the support column
11 tore through beams and cross members that spanned the area between the Tesla's crash rails, causing
12 significant intrusion into the passenger compartment and battery modules. Damage to the battery
13 modules resulted in a chain reaction known as thermal runaway, causing an uncontrollable fire
14 which consumed the Tesla's passenger compartment within seconds of the collision.

15 Clyde Leach, who was properly restrained by a seatbelt in the driver's seat, suffered multiple
16 injuries in the collision, including blunt force injuries, fractures, spinal cord injuries, internal
17 injuries, and burn injuries, resulting in his death. Plaintiff Donna Leach is the wife of Clyde Leach.

18 **Tesla's Position:**

19 Tesla disputes Plaintiff's allegations; there is no defect in the 2021 Model Y that caused or
20 contributed to this crash or decedent's injuries and death. The accident was solely the result of
21 decedent Clyde Leach's improper and unsafe operation of his Model Y. The vehicle's Event Data
22 Recorder (EDR) shows that in the seconds prior to the accident, the driver pressed the accelerator to as
23 much as 100% and did not apply the brake pedal. Plaintiff's characterization that the vehicle "was
24 operated in significant part by its internal computer system" lacks any evidentiary support. The only
25 way the accelerator pedal moves to 100% is if someone presses on it. Plaintiff acknowledges this
26 by asserting that the alleged defect is "sudden unintended acceleration" – i.e., pedal misapplication.
27 There is no allegation or support for an allegation that Tesla's Autopilot driver assist features played
28 any role whatsoever. More likely, the driver experienced some sort of medical episode or

1 momentary confusion and pressed the accelerator to speed the vehicle off-road and into its ultimate
2 impact. Neither the Model Y nor any other vehicle on the road today is designed to or could have
3 performed differently to avoid this collision.

4 Investigation is on-going, and Tesla expressly reserves the right to supplement and/or amend its
5 defenses as fact discovery is completed and experts are identified and deposed during the expert
6 discovery period.

7 **3. Legal Issues**

8 **Plaintiff's Position:**

9 Plaintiff, in her California Superior Court Complaint for Damages and Demand for Jury Trial,
10 has alleged claims for: 1) Strict Products Liability; 2) Negligence; and 3) Survival Action (and
11 accompanying wrongful death claimant standing and damages) against Defendant Tesla, Inc.

12 **Tesla's Position:**

13 Tesla denies the 2021 Model Y was defective under any theory and denies it was negligent or
14 that there was an intentional wrongdoing with respect to any aspect of the design or manufacture of the
15 2021 Model Y or with respect to its warnings or instructions. The accident at issue was solely the result
16 of decedent Clyde Leach's improper use of the 2021 Model Y and failure to operate it safely.

17 **4. Motions**

18 The parties are in the midst of a discovery dispute concerning Tesla's responses to Plaintiff's
19 Interrogatories and Requests for Production of Documents. Plaintiff anticipates filing the precursor
20 to a motion to compel further responses and document production consistent with the Court's
21 Standing Order. It is Tesla's position that any motion to compel at this time would be premature
22 given that the parties have not adequately met and conferred with respect to Plaintiff's discovery
23 requests.

24 There are no motions currently pending before the Court in this case. Tesla filed a motion to
25 transfer venue which was denied on February 6, 2024. (See Doc. 31.) On October 25, 2024, Plaintiff
26 filed a motion for sanctions against Tesla for alleged mediation misconduct, which was denied without
27 a hearing, and the Motion was sealed because it improperly disclosed confidential mediation
28 negotiations. The parties may file pretrial motions (including *Daubert* motions), choice of law motions,

1 and dispositive motions.

2 **5. Amendment of Pleadings**

3 The Parties do not anticipate any amendments to the pleadings at this time.

4 **6. Evidence Preservation**

5 The Parties certify that they have reviewed the Guidelines Relating to the Discovery of
6 Electronically Stored Information (“ESI Guidelines”) and have met and conferred pursuant to Fed.
7 R. Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the
8 issues reasonably evident in this action.

9 **7. Disclosures**

10 The Parties have exchanged Initial Disclosures pursuant to Federal Rule of Civil Procedure
11 26(a)(1).

12 **8. Discovery**

13 The Parties have exchanged initial written discovery and documents, and are in the process of
14 conferring with respect to discovery served by Plaintiff on Tesla. Additional written discovery was
15 served by both parties on November 6, 2024. The parties have completed depositions of Plaintiff Donna
16 Leach, decedent’s son, and two officers at the accident scene. The Court has entered a protective order
17 submitted by the parties.

18 The Parties completed a joint vehicle inspection on June 20, 2024 in Ohio and a chip swap
19 inspection on November 6, 2024 in North Carolina to retrieve EDR data from the restraint control
20 module.

21 The Parties further expect to obtain additional documents from third-party entities. Tesla also
22 anticipates deposing at least one additional eyewitness, the coroner, decedent’s doctors, and anyone
23 else Tesla identifies as a relevant witness during discovery. Plaintiff anticipates receiving document
24 production(s) from Tesla, reviewing the documents, and deposing Tesla engineers and other
25 witnesses whose identities are revealed as discovery proceeds. Plaintiff has served an F.R.C.P.
26 30(b)(6) deposition notice of Tesla, Inc. with a date of December 6, 2024, however Tesla has
27 requested to meet and confer regarding the topics. The parties anticipate identifying expert witnesses
28 and deposing any expert witnesses identified by the parties.

1 **9. Class Actions**

2 The above-captioned case is not a class action.

3 **10. Related Cases**

4 There are no related cases.

5 **11. Relief**6 Plaintiff is seeking general and special damages in excess of the sum of \$75,000.00 arising and
7 resulting from the subject incident.8 Tesla denies that the 2021 Model Y is defective and denies that Plaintiff is entitled to any relief
9 requested in the Complaint, or to any relief at all. Tesla is not seeking affirmative relief at this time.10 **12. Settlement and ADR**

11 The Parties participated in private mediation on September 13, 2024. The matter did not resolve.

12 **13. Other References**13 This case is not suitable for reference to binding arbitration, a special master, or the Judicial
14 Panel on Multidistrict Litigation15 **14. Narrowing of Issues**16 The Parties are not presently in a position to address whether it is feasible or desirable to: (a)
17 narrow the issues in the case by agreement or motion, (b) bifurcate the issues, claims, or defenses
18 at trial, or (c) reduce the length of trial by stipulation, use of summaries, or other expedited means
19 of presenting issues.20 **15. Scheduling**21 Plaintiff respectfully requests that the trial and related dates be continued so that the parties
22 can complete fact and expert discovery. Prior to Plaintiff's motion for sanctions filing, the Parties
23 had discussed stipulating to a continuance and Plaintiff circulated a proposed stipulation on October
24 30, 2024 containing the chart below with the following suggested dates. Tesla has not agreed to any
25 of these dates.

26 ///

27 ///

28 ///

1 EVENT	2 CURRENT DATE	3 PROPOSED DATE
2 NON-EXPERT DISCOVERY CUTOFF	3 12/6/2024	3/7/2025
4 PLAINTIFFS' DESIGNATION OF EXPERTS	5 1/21/2025	4/21/2025
5 DEFENDANT'S REBUTTAL & DISCLOSURES	6 2/18/2025	5/16/2025
6 PLAINTIFFS' REBUTTAL	7 3/18/2025	6/18/2025
7 EXPERT DISCOVERY CUTOFF	8 4/15/2025	7/15/2025
8 DISPOSITIVE MOTIONS FILING DEADLINE	9 4/4/2025	7/7/2025
9 OPPOSITIONS DUE	10 4/18/2025	7/21/2025
10 REPLY DUE	11 4/25/2025	8/4/2025
11 LAST DATE FOR HEARING	12 5/9/2025 at 10:00	13 8/15/25 at 10:00
12 PRETRIAL PAPERWORK DUE	13 6/17/2025	14 9/17/2025
13 PRETRIAL CONFERENCE DATE	14 7/1/2025 at 1:30	15 10/1/2025 at 1:30
14 JURY TRIAL DATE (EST. 21 DAYS)	15 7/21/2025 at 8:30	16 10/20/2025 at 8:30

12
16. Trial

13
 The Parties have requested a jury trial and estimate it will take three (3) weeks to complete.

14
17. Disclosures of Non-Party Interested Entities or Persons

15
 Tesla filed its Certification of Interested Entities or Persons, as required by Local Rule 3-15 on
 16 July 6, 2023. (See Doc. 3.) Tesla has no parent corporation and no public corporation owns 10% or
 17 more of the company's stock.

18
18. Professional Conduct

19
 The attorneys of record have reviewed the Guidelines for Professional Conduct of the Northern
 20 District of California.

21
19. Other

22
 There are no other matters at this time.

23
 Dated: November 8, 2024

MCCUNE LAW GROUP

24
 BY: /s/ Todd A. Wahlberg

25
 Todd A. Walburg

26
 Scott B. Baez

27
 Attorneys for Plaintiff

28
 DONNA LEACH, individually and on behalf
 of the Estate of Clyde Leach

1 Dated: November 8, 2024

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**NELSON MULLINS RILEY &
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BY: /s/ Trevor C. Zeiler
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Ian G. Schuler
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Dennis Hom (Pro Hac Vice)
Attorneys for Defendant
TESLA, INC.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on November 8, 2024, I filed the foregoing document entitled ***JOINT***
3 ***CASE MANAGEMENT STATEMENT*** with the clerk of court using the CM/ECF system, which
4 will send a notice of electronic filing to all counsel of record in this action.

5 */s/ Trevor C. Zeiler*

6 Trevor C. Zeiler